IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

FRIDAY, THE 9TH MARCH 2007 / 18TH PHALGUNA 1928

Crl.Rev.Pet.No. 98 of 1998()

MC.73/1995 of JUDL.MAGISTRATE OF FIRST CLASS COURT-II, PERINTHALMANNA

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REVN. PETITIONER/ COUNTER PETITIONER:

AHAMMEDKUTTY,
S/o. KODAKKADAN MAMMEDKUTTY,
THODIKAPPALAM DESOM, PARUR AMSOM,
ERNAD TALUK

BY ADV. SRI.N.N.SUGUNAPALAN (SR.)
SRI.G.BALAKRISHNAN

1ST RESPONDENTS/PETITIONER:

MEHERUNNISA,
D/o. ALI MASTER,
VALLIKAPARAMBIL, KODASSERI DESOM,
CHEMBRASSERI AMSOM, ERNAD TALUK.

BY PUBLIC PROSECUTOR SRI.C.M.KAMMAPPU
ADV.SRI.V.N.ACHUTHA KURUP
SMT.BINDU

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 09/03/2007, ALONG WITH CRRP NO. 598 OF 1998, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P.No.643 OF 1998 IN CRL.R.P.98 OF 1998

DISMISSED

09/03/2007 Sd/- K.R.UDAYABHANU,JUDGE

TRUE COPY

P.A.TO JUDGE

K.R.UDAYABHANU,J

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Crl.R.P.Nos.98 &598 OF 1998

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Dated this the 9th day of March,2007

ORDER

The revision petitioner in Crl.R.P. No.98/1998 is the counter petitioner in M.C.No.73/95, the petition filed under Section 3(1) of the Muslim Women (Protection of Rights on Divorce) Act, 1986. The revision petitioner in Crl.R.P.No.598/1998, who is the petitioner in the M.C. has sought for enhancement of the amount of fair provision ordered to be paid and has also challenged the order of the court below declining her prayer claiming value of gold ornaments and the amount paid to the counter petitioner at the time of marriage and the return of the after marriage. The revision petitioner/counter petitioner has sought for reducing the amount of fair provision ordered to be paid ie, Rs.1,80,000/- and also the amount ordered as expenses during the period of iddat ie, Rs.9,000/-.

2. The evidence adduced in the matter consisted of the testimony of Pws 1 and 2 , Exts.P1 to P4 as well as testimony of C.P.Ws 1 to 3. The trial court on a consideration of the evidence adduced in the matter, that the counter petitioner had been working at abroad for more than 16 years and that he has got landed properties extending about five acres even as per the documents

produced by the petitioner assessed the amount to be paid duing Iddat period as Rs.3,000/- and the same was multiplied by 60 and the amount of Rs.1,80,000/- was awarded, towards fair provision although, the amount claimed was Rs.2,50,000/-. According to the revision petitioner/counter petitioner the sum of Rs.5,000/- as claimed for maintenance during Iddat period, should be divided by three to calculate the monthly allowance. The above amount should be multiplied by 60 which would come to only about Rs.1,00,000/-. I find that the above contention of the counter petitioner cannot be accepted in view of the fact that the petitioner has sought for Rs.2.5 lakhs towards fair provision, Exts.P2 to P4 certified copies of the title deeds of the property owned by the counter petitioner, which would indicate that he is a fairly rich man. The court below has quotted from the portion of disposition of PW1 counter petitioner admitting that he is having four acres of property in his name and that he cannot say how much property he owned. I find that the court below has metitculously considered the evidence adduced in this manner and calculated the amount that he could provide for the petitioner. In the circumstances, I find no reason to interfere in the findings of the court below in this regard in exercise of the revisional jurisdiction.

3. The contention of the revision petitioner/petitioner in Crl.R.P.No.598/1998 is that she should have granted enhanced

amount towards fair provision as well as the court ought to have granted the prayer for the value of gold ornaments and other amounts allegedly received by the counter petitioner. I find that the petitioner has not established her case before the court below in this regard with any objective evidence. In the circumstances both the revision petitions are dismissed.

The petitioner is entitled to withdraw the amount in deposit also. The counter petitioner is granted four months time from today onwards to remit the balance amount. Execution proceedings shall be kept in abeyance till then.

K.R.UDYABHANU,JUDGE

dvs